

COMMITTEE ON NATURAL RESOURCES AND RURAL AFFAIRS

SENATE AMENDMENTS TO S.B. 1288

(Reference to printed bill)

1 Strike everything after the enacting clause and insert:

2 "Section 1. Section 11-251, Arizona Revised Statutes, is amended to  
3 read:

4 11-251. Powers of board

5 The board of supervisors, under such limitations and restrictions as  
6 are prescribed by law, may:

7 1. Supervise the official conduct of all county officers and officers  
8 of all districts and other subdivisions of the county charged with assessing,  
9 collecting, safekeeping, managing or disbursing the public revenues, see that  
10 such officers faithfully perform their duties and direct prosecutions for  
11 delinquencies, and, when necessary, require the officers to renew their  
12 official bonds, make reports and present their books and accounts for  
13 inspection.

14 2. Divide the counties into such districts or precincts as required by  
15 law, change them and create others as convenience requires.

16 3. Establish, abolish and change election precincts, appoint  
17 inspectors and judges of elections, canvass election returns, declare the  
18 result and issue certificates thereof.

19 4. Lay out, maintain, control and manage public roads, ferries and  
20 bridges within the county and levy such tax for that purpose as may be  
21 authorized by law.

22 5. Provide for the care and maintenance of the sick of the county,  
23 erect and maintain hospitals for that purpose and, in its discretion, provide

1 a farm in connection with the county hospital and adopt ordinances for  
2 working the farm.

3 6. Provide suitable rooms for county purposes.

4 7. Purchase, receive by donation or lease real or personal property  
5 necessary for the use of the county prison and take care of, manage and  
6 control the property, but no purchase of real property shall be made unless  
7 the value has been previously estimated by three disinterested citizens of  
8 the county, appointed by the board for that purpose, and no more than the  
9 appraised value shall be paid for the property.

10 8. Cause to be erected and furnished a courthouse, jail and hospital  
11 and such other buildings as necessary, and construct and establish a branch  
12 jail, when necessary, at a point distant from the county seat.

13 9. Sell at public auction, after thirty days' previous notice given by  
14 publication in a newspaper of the county, stating the time and place of the  
15 auction, and convey to the highest bidder, for cash or contract of purchase  
16 extending not more than ten years from the date of sale and upon such terms  
17 and conditions and for such consideration as the board shall prescribe, any  
18 property belonging to the county that the board deems advantageous for the  
19 county to sell, or which the board deems unnecessary for use by the county,  
20 and shall pay the proceeds thereof into the county treasury for use of the  
21 county, except that personal property need not be sold but may be used as a  
22 trade-in on the purchase of personal property when the board deems this  
23 disposition of the personal property to be in the best interests of the  
24 county. When the property for sale is real property, the board shall have  
25 such property appraised by a qualified independent fee appraiser who has an  
26 office located in this state. The appraiser shall establish a minimum price,  
27 which shall not be less than ninety per cent of the appraised value. The  
28 notice regarding the sale of real property shall be published in the county  
29 where the property is situated and may be published in one or more other  
30 counties, and shall contain, among other things, the appraised value, the  
31 minimum acceptable sale price, and the common and legal description of the  
32 real property. Notwithstanding the requirement for a sale at public auction

1       prescribed in this paragraph, a county, with unanimous consent of the board,  
2       without a public auction, may sell or lease any county property to any other  
3       duly constituted governmental entity, including the state, cities, towns and  
4       other counties. A county, with unanimous consent of the board, without  
5       public auction, may sell or lease any county property for a specific use to  
6       any solely charitable, social or benevolent nonprofit organization  
7       incorporated or operating in this state. A county may dispose of surplus  
8       equipment and materials that have little or no value or that are  
9       unauctionable in any manner authorized by the board.

10       10. Examine and exhibit the accounts of all officers having the care,  
11       management, collection or disbursement of money belonging to the county or  
12       appropriated by law or otherwise for the use and benefit of the county.

13       11. Examine, settle and allow all accounts legally chargeable against  
14       the county, order warrants to be drawn on the county treasurer for that  
15       purpose and provide for issuing the warrants.

16       12. Levy such tax annually on the taxable property of the county as may  
17       be necessary to defray the general current expenses thereof, including  
18       salaries otherwise unprovided for, and levy such other taxes as are required  
19       to be levied by law.

20       13. Equalize assessments.

21       14. Direct and control the prosecution and defense of all actions to  
22       which the county is a party, and compromise them.

23       15. Insure the county buildings in the name of and for the benefit of  
24       the county.

25       16. Fill by appointment all vacancies occurring in county or precinct  
26       offices.

27       17. Adopt provisions necessary to preserve the health of the county,  
28       and provide for the expenses thereof.

29       18. With the approval of the department of health services, contract  
30       with any qualified person to provide all or part of the health services,  
31       funded through the department of health services with federal or state  
32       monies, that the board in its discretion extends to residents of the county.

1           19. Contract for county printing and advertising, and provide books and  
2 stationery for county officers.

3           20. Provide for rebinding county records, or, if necessary, the  
4 transcribing of county records.

5           21. Make and enforce necessary rules and regulations for the government  
6 of its body, the preservation of order and the transaction of business.

7           22. Adopt a seal for the board, a description and impression of which  
8 shall be filed by the clerk in the office of the county recorder and the  
9 secretary of state.

10          23. Establish, maintain and conduct or aid in establishing, maintaining  
11 and conducting public aviation fields, purchase, receive by donation or lease  
12 any property necessary for that purpose, lease, at a nominal rental if  
13 desired, sell such aviation fields or property to the United States or any  
14 department, or sell or lease such aviation fields to a city, exchange lands  
15 acquired pursuant to this section for other lands, or act in conjunction with  
16 the United States in maintaining, managing and conducting all such  
17 property. If any such property or part of that property is not needed for  
18 these purposes, it shall be sold by the board and the proceeds shall be paid  
19 into the general fund of the county.

20          24. Acquire and hold property for the use of county fairs, and conduct,  
21 take care of and manage them.

22          25. Authorize the sheriff to offer a reward, not exceeding ten thousand  
23 dollars in one case, for information leading to the arrest and conviction of  
24 persons charged with crime.

25          26. Contract for the transportation of insane persons to the state  
26 hospital or direct the sheriff to transport such persons. The county is  
27 responsible for such expense to the extent the expense is not covered by any  
28 third party payor.

1           27. Provide for the reasonable expenses of burial for deceased  
2 indigents as provided in section 36-831 and maintain a permanent register of  
3 deceased indigents including name, age and date of death, and when burial  
4 occurs, the board shall mark the grave with a permanent marker giving the  
5 name, age, and date of birth, if known.

6           28. Sell or grant to the United States the title or interest of the  
7 county in any toll road or toll train in or partly within a national park,  
8 upon such terms and consideration as may be agreed upon by the board and the  
9 secretary of the interior of the United States.

10          29. Enter into agreements for acquiring rights-of-way, construction,  
11 reconstruction or maintenance of highways in their respective counties,  
12 including highways that pass through Indian reservations, with the government  
13 of the United States, acting through its duly authorized officers or agents  
14 pursuant to any act of Congress, except that the governing body of any Indian  
15 tribe whose lands are affected must consent to the use of its land, and any  
16 such agreements entered into before June 26, 1952 are validated and  
17 confirmed.

18          30. Do and perform all other acts and things necessary to the full  
19 discharge of its duties as the legislative authority of the county  
20 government.

21          31. Make and enforce all local, police, sanitary and other regulations  
22 not in conflict with general law.

23          32. Budget for funds for foster home care during the school week for  
24 mentally retarded and otherwise handicapped children who reside within the  
25 county and attend a school for the handicapped in a city or town within such  
26 county.

27          33. Do and perform all acts necessary to enable the county to  
28 participate in the economic opportunity act of 1964 (P.L. 88-452; 78 Stat.  
29 508), as amended.

1           34. Provide a plan or plans for its employees that provide tax deferred  
2 annuity and deferred compensation plans as authorized pursuant to title 26,  
3 United States Code. Such plans shall allow voluntary participation by all  
4 employees of the county. Participating employees shall authorize the board  
5 to make reductions in their remuneration as provided in an executed deferred  
6 compensation agreement.

7           35. Adopt and enforce standards for shielding and filtration of  
8 commercial or public outdoor portable or permanent light fixtures in  
9 proximity to astronomical or meteorological laboratories.

10          36. Subject to the prohibitions, restrictions and limitations as set  
11 forth in section 11-830, adopt and enforce standards for excavation, landfill  
12 and grading to prevent unnecessary loss from erosion, flooding and  
13 landslides.

14          37. Make and enforce necessary ordinances for the operation and  
15 licensing of any establishment not in the limits of an incorporated city or  
16 town in which is carried on the business of providing baths, showers or other  
17 forms of hydrotherapy or any service of manual massage of the human body.

18          38. Provide pecuniary compensation as salary or wages for overtime work  
19 performed by county employees, including those employees covered by title 23,  
20 chapter 2, article 9. In so providing, the board may establish salary and  
21 wage plans incorporating classifications and conditions prescribed by the  
22 federal fair labor standards act.

23          39. Establish, maintain and operate facilities that provide for  
24 physical evaluation, diagnosis and treatment of patients and that do not keep  
25 patients overnight as bed patients or treat patients under general  
26 anesthesia.

27          40. Enact ordinances under its police authority prescribing reasonable  
28 curfews in the entire unincorporated area or any area less than the entire  
29 unincorporated area of the county for minors and fines not to exceed the fine  
30 for a petty offense for violation of such ordinances. Nothing in this  
31 paragraph shall be construed to require a request from an association or a  
32 majority of the residents of an area before the board may enact an ordinance

1 applicable to the entire or any portion of the unincorporated area. An  
2 ordinance enacted pursuant to this paragraph shall provide that a minor is  
3 not violating a curfew if the minor is accompanied by a parent, a guardian or  
4 an adult having supervisory custody, is on an emergency errand or has been  
5 specifically directed to the location on reasonable, legitimate business or  
6 some other activity by the parent, guardian or adult having supervisory  
7 custody. If no curfew ordinance is applicable to a particular unincorporated  
8 area of the county, the board may adopt a curfew ordinance on the request or  
9 petition of either:

10 (a) A homeowners' association that represents a majority of the  
11 homeowners in the area covered by the association and to which the curfew  
12 would apply.

13 (b) A majority of the residents of the area to which the curfew would  
14 apply.

15 41. Lease or sublease personal property owned by the county to other  
16 political subdivisions of this state to be used for a public purpose.

17 42. In addition to the agreements authorized by section 11-651, enter  
18 into long-term agreements for the purchase of personal property, provided  
19 that the board may cancel any such agreement at the end of a fiscal year, at  
20 which time the seller may repossess the property and the agreement shall be  
21 deemed terminated.

22 43. Make and enforce necessary ordinances not in conflict with the laws  
23 of this state to regulate off-road recreational motor vehicles that are  
24 operated within the county on public lands without lawful authority or on  
25 private lands without the consent of the lawful owner or that generate air  
26 pollution. For the purposes of this paragraph, "off-road recreational motor  
27 vehicle" means three and four wheel vehicles manufactured for recreational  
28 nonhighway all terrain travel.

1           44. Acquire land for roads, drainage ways and other public purposes by  
2 exchange without public auction, except that notice shall be published thirty  
3 days before the exchange, listing the property ownership and descriptions.

4           45. Purchase real property for public purposes, provided that final  
5 payment shall be made not later than five years after the date of purchase.

6           46. Lease-purchase real property and improvements for real property for  
7 public purposes, provided that final payment shall be made not later than  
8 twenty-five years after the date of purchase. Any increase in the final  
9 payment date from fifteen years up to the maximum of twenty-five years shall  
10 be made only on unanimous approval by the board of supervisors.

11           47. Make and enforce ordinances for the protection and disposition of  
12 domestic animals subject to inhumane, unhealthful or dangerous conditions or  
13 circumstances. An ordinance enacted pursuant to this paragraph shall not  
14 restrict or limit the authority of the game and fish commission to regulate  
15 the taking of wildlife. For the purposes of this paragraph, "domestic  
16 animal" means an animal kept as a pet and not primarily for economic  
17 purposes.

18           48. If a part of a parcel of land is to be taken for roads, drainage,  
19 flood control or other public purposes and the board and the affected  
20 property owner determine that the remainder will be left in such a condition  
21 as to give rise to a claim or litigation concerning severance or other  
22 damage, acquire the whole parcel by purchase, donation, dedication, exchange,  
23 condemnation or other lawful means, and the remainder may be sold or  
24 exchanged for other properties needed for any public purpose.

25           49. Make and enforce necessary rules providing for the reimbursement of  
26 travel and subsistence expenses of members of county boards, commissions and  
27 advisory committees when acting in the performance of their duties, if the  
28 board, commission or advisory committee is authorized or required by federal  
29 or state law or county ordinance, and the members serve without compensation.



1           50. Provide a plan or plans for county employee benefits that allow for  
2 participation in a cafeteria plan that meets the requirements of the United  
3 States internal revenue code of 1986.

4           51. Provide for fringe benefits for county employees, including sick  
5 leave, personal leave, vacation and holiday pay and jury duty pay.

6           52. Make and enforce ordinances that are more restrictive than state  
7 requirements to reduce or encourage the reduction of carbon monoxide and  
8 ozone levels, provided an ordinance does not establish a standard for  
9 vehicular emissions, including ordinances to reduce or encourage the  
10 reduction of the commuter use of motor vehicles by employees of the county  
11 and employees whose place of employment is in unincorporated areas of the  
12 county.

13           53. Make and enforce ordinances to provide for the reimbursement of up  
14 to one hundred per cent of the cost to county employees of public bus or van  
15 pool transportation to and from their place of employment.

16           54. Lease for public purposes any real property, improvements for real  
17 property and personal property under the same terms and conditions, to the  
18 extent applicable, as are specified in sections 11-651 and 11-653 for  
19 lease-purchases.

20           55. Enact ordinances prescribing regulation of alarm systems and  
21 providing for civil penalties to reduce the incidence of false alarms at  
22 business and residential structures relating to burglary, robbery, fire and  
23 other emergencies not within the limits of an incorporated city or town.

24           56. In addition to paragraph 9 of this section, and notwithstanding  
25 section 23-504, sell or dispose of, at no less than fair market value, county  
26 personal property that the board deems no longer useful or necessary through  
27 a retail outlet or to another government entity if the personal property has  
28 a fair market value of no more than one thousand dollars, or by retail sale  
29 or private bid, if the personal property has a fair market value of no more  
30 than fifteen thousand dollars. Notice of sales in excess of one thousand  
31 dollars shall include a description and sale price of each item and shall be  
32 published in a newspaper of general circulation in the county, and for thirty

1 days after notice other bids may be submitted that exceed the sale price by  
2 at least five per cent. The county shall select the highest bid received at  
3 the end of the thirty day period.

4 57. Sell services, souvenirs, sundry items or informational  
5 publications that are uniquely prepared for use by the public and by  
6 employees and license and sell information systems and intellectual property  
7 developed from county resources that the county is not obligated to provide  
8 as a public record.

9 58. On unanimous consent of the board of supervisors, license, lease or  
10 sell any county property pursuant to paragraphs 56 and 57 of this section at  
11 less than fair market value to any other governmental entity, including this  
12 state, cities, towns, public improvement districts or other counties within  
13 or outside of this state, or for a specific purpose to any charitable, social  
14 or benevolent nonprofit organization incorporated or operating in this state.

15 59. On unanimous consent of the board of supervisors, provide technical  
16 assistance and related services to a fire district pursuant to an  
17 intergovernmental agreement.

18 60. Adopt contracting procedures for the operation of a county health  
19 system pursuant to section 11-291. Before the adoption of contracting  
20 procedures the board shall hold a public hearing. The board shall publish  
21 one notification in a newspaper of general circulation in the county seat at  
22 least fifteen days before the hearing.

23 61. Enter into an intergovernmental agreement pursuant to chapter 7,  
24 article 3 of this title for a city or town to provide emergency fire or  
25 emergency medical services pursuant to section 9-500.23 to a county island as  
26 defined in section 11-251.12. The board may charge the owners of record in  
27 the county island a fee to cover the cost of an intergovernmental agreement  
28 that provides fire and emergency medical services.

29 62. In counties that employ or have designated an animal control county  
30 enforcement agent pursuant to section 11-1005, enter into agreements with  
31 foundations or charitable organizations to solicit donations, property or  
32 services, excluding enforcement or inspection services, for use by the county

1 enforcement agent solely to perform nonmandated services and to fund capital  
2 improvements for county animal control, subject to annual financial and  
3 performance audits by an independent party as designated by the county board  
4 of supervisors. For the purposes of this paragraph, nonmandated services are  
5 limited to low cost spay and neuter services, public education and outreach  
6 efforts, pet adoption efforts, care for pets that are victims of cruelty or  
7 neglect and support for volunteer programs.

8 63. Adopt ordinances prohibiting open fires and campfires on lands in  
9 the unincorporated areas of the county that are private property islands  
10 within the boundaries of a national forest or united states bureau of land  
11 management or state land holdings, if such a prohibition has been declared by  
12 a national forest, the united states bureau of land management or the state  
13 forester.

14 64. Fix the amount of license fees to be paid by any person, firm,  
15 corporation or association for carrying on any game or amusement business in  
16 unincorporated areas of the county and prescribe the method of collection or  
17 payment of those fees, for a stated period in advance, and fix penalties for  
18 failure to comply by fine. Nothing in this article shall be construed as  
19 authorizing any county to require an occupational license or fee for any  
20 activity if state law precludes requiring such a license or fee.

21 65. Adopt and enforce ordinances for the prevention, abatement and  
22 removal of graffiti, providing that any restrictions on the retail display of  
23 potential graffiti tools be limited to any of the following:

24 (a) In a place that is in the line of sight of a cashier or in the  
25 line of sight from a work station normally continuously occupied during  
26 business hours.

27 (b) In a manner that makes the product accessible to a patron of the  
28 business establishment only with the assistance of an employee of the  
29 establishment.

30 (c) In an area electronically protected, or viewed by surveillance  
31 equipment that is monitored, during business hours.

1           66. ADOPT ORDINANCES AND FEES RELATED TO THE IMPLEMENTATION OF A LOCAL  
2 STORMWATER QUALITY PROGRAM PURSUANT TO TITLE 49, CHAPTER 2, ARTICLE 11.

3           Sec. 2. Title 49, chapter 2, Arizona Revised Statutes, is amended by  
4 adding article 11, to read:

5           ARTICLE 11. LOCAL STORMWATER QUALITY PROGRAMS

6           49-371. Local stormwater quality programs; authority;  
7                           limitations; penalties

8           A. A COUNTY OR TOWN OR AN AGENCY OF THIS STATE THAT IS REQUIRED BY THE  
9 CLEAN WATER ACT TO OBTAIN COVERAGE UNDER A NATIONAL OR STATE POLLUTANT  
10 DISCHARGE ELIMINATION SYSTEM STORMWATER PROGRAM MAY DO ALL OF THE FOLLOWING:

11           1. DEVELOP AND IMPLEMENT STORMWATER POLLUTION PREVENTION PLANS AND  
12 STORMWATER MANAGEMENT PROGRAMS AS PRESCRIBED BY THE CLEAN WATER ACT.

13           2. ADOPT, AMEND, REPEAL AND IMPLEMENT ANY ORDINANCES, RULES,  
14 REGULATIONS OR SPECIFICATIONS NECESSARY TO COMPLY WITH THE MINIMUM  
15 REQUIREMENTS OF THE CLEAN WATER ACT, INCLUDING THE IMPOSITION AND COLLECTION  
16 OF FEES.

17           3. ADOPT RULES, REGULATIONS OR ORDINANCES REGULATING THE USE OF LANDS  
18 OR RIGHTS-OF-WAY OWNED OR LEASED BY THE COUNTY, TOWN OR AGENCY AS MAY BE  
19 NECESSARY TO IMPLEMENT AND ENFORCE THE NATIONAL OR STATE POLLUTANT DISCHARGE  
20 ELIMINATION SYSTEM STORMWATER PROGRAM. RULES, REGULATIONS OR ORDINANCES  
21 ADOPTED PURSUANT TO THIS PARAGRAPH MAY INCLUDE PROVISIONS FOR BOTH OF THE  
22 FOLLOWING:

23           (a) ESTABLISHMENT AND ENFORCEMENT OF A COUNTY, TOWN OR AGENCY PERMIT  
24 PROGRAM, INCLUDING CONDITIONS FOR THE REVIEW, ISSUANCE, REVISION, RENEWAL,  
25 REVOCATION, ADMINISTRATION AND ENFORCEMENT OF A PERMIT.

26           (b) ESTABLISHMENT OF FEES FOR THE USE OF LANDS OR RIGHTS-OF-WAY AND  
27 THE DISCHARGE OF STORMWATER OR OTHER WATERS ONTO OR ACROSS THOSE LANDS OR  
28 RIGHTS-OF-WAY PURSUANT TO A PERMIT.

29           4. ENFORCE THE ORDINANCES, RULES, REGULATIONS OR SPECIFICATIONS BY  
30 ADMINISTRATIVE ENFORCEMENT AND IMPOSING AND RECOVERING A CIVIL PENALTY OF NOT  
31 MORE THAN TWO THOUSAND FIVE HUNDRED DOLLARS FOR EACH VIOLATION. EACH DAY OF  
32 A VIOLATION CONSTITUTES A SEPARATE OFFENSE.

1           5. ADOPT AND ENFORCE CIVIL PENALTIES FOR VIOLATIONS OF THE ORDINANCES,  
2 RULES, REGULATIONS OR SPECIFICATIONS ESTABLISHED PURSUANT TO THIS SECTION. A  
3 CIVIL PENALTY MAY BE IMPOSED OR ENFORCED, OR BOTH, BY ANY OF THE FOLLOWING:

4           (a) AN ADMINISTRATIVE PROCESS ESTABLISHED PURSUANT TO RULES ADOPTED AS  
5 PROVIDED BY LAW.

6           (b) AN ACTION IN SUPERIOR COURT.

7           (c) A NEGOTIATED SETTLEMENT AGREEMENT.

8           B. AN ORDINANCE, RULE, REGULATION OR SPECIFICATION ADOPTED PURSUANT TO  
9 THIS SECTION SHALL NOT BE MORE STRINGENT THAN OR CONFLICT WITH ANY  
10 REQUIREMENT OF THE CLEAN WATER ACT.

11           C. FOR THE PURPOSES OF ADOPTING AN ORDINANCE, RULE, REGULATION OR  
12 SPECIFICATION PURSUANT TO THIS SECTION, A COUNTY OR TOWN OR AN AGENCY OF THIS  
13 STATE SHALL USE THE DEFINITIONS PRESCRIBED IN SECTION 49-255.

14           D. A COUNTY OR TOWN THAT ADOPTS ORDINANCES, REGULATIONS OR RULES  
15 PURSUANT TO THIS SECTION MAY ENFORCE THOSE ORDINANCES, REGULATIONS OR RULES  
16 AS PRESCRIBED BY SECTIONS 49-262 AND 49-263. FOR THE PURPOSES OF ENFORCEMENT  
17 PURSUANT TO SECTIONS 49-262 AND 49-263, THE COUNTY'S OR TOWN'S ATTORNEY AND  
18 THE COUNTY'S OR TOWN'S DESIGNATED DEPARTMENT HEAD HAS THE AUTHORITY  
19 PRESCRIBED FOR THE ATTORNEY GENERAL AND THE DIRECTOR OF ENVIRONMENTAL  
20 QUALITY, RESPECTIVELY, PURSUANT TO THOSE SECTIONS.

21           E. NOTWITHSTANDING SECTION 49-263, SUBSECTION G, MONIES RECEIVED BY A  
22 COUNTY OR TOWN PURSUANT TO AN ORDINANCE OR RULE ADOPTED PURSUANT TO THIS  
23 ARTICLE SHALL BE DEPOSITED WITH THE COUNTY OR TOWN FOR USE IN ADMINISTERING  
24 THE PROGRAM OR PLAN ADOPTED PURSUANT TO THIS SECTION.

25           49-372. Administrative enforcement

26           A. A COUNTY OR TOWN OR AN AGENCY OF THIS STATE MAY DESIGNATE AND  
27 AUTHORIZE AN ADMINISTRATIVE DIRECTOR FOR THE PROGRAM OR PLAN PRESCRIBED BY  
28 SECTION 49-371 TO PERFORM ADMINISTRATIVE ENFORCEMENT DUTIES. IF THE  
29 ADMINISTRATIVE DIRECTOR DETERMINES THAT A PERSON IS IN VIOLATION OF AN  
30 ORDINANCE, RULE OR REGULATION ADOPTED PURSUANT TO SECTION 49-371 OR A PERMIT  
31 AUTHORIZED PURSUANT TO THAT SECTION, THE ADMINISTRATIVE DIRECTOR MAY ISSUE AN  
32 ORDER REQUIRING COMPLIANCE IMMEDIATELY OR WITHIN A SPECIFIED TIME PERIOD AND

1 MAY INCLUDE A CIVIL PENALTY. A COMPLIANCE ORDER SHALL STATE WITH REASONABLE  
2 SPECIFICITY THE NATURE OF THE VIOLATION, A TIME FOR COMPLIANCE IF APPLICABLE  
3 AND THE ALLEGED VIOLATOR'S RIGHT TO A HEARING. THE ADMINISTRATIVE DIRECTOR  
4 SHALL TRANSMIT THE COMPLIANCE ORDER TO THE ALLEGED VIOLATOR BY CERTIFIED  
5 MAIL, RETURN RECEIPT REQUESTED, OR BY HAND DELIVERY. A COMPLIANCE ORDER  
6 BECOMES FINAL AND ENFORCEABLE IN SUPERIOR COURT UNLESS WITHIN THIRTY DAYS  
7 AFTER RECEIPT OF THE ORDER THE ALLEGED VIOLATOR REQUESTS A HEARING BEFORE THE  
8 ADMINISTRATIVE DIRECTOR. IF A HEARING IS REQUESTED, THE ORDER DOES NOT  
9 BECOME FINAL UNTIL THE ADMINISTRATIVE DIRECTOR HAS ISSUED A FINAL DECISION ON  
10 THE APPEAL. A FINAL ADMINISTRATIVE DECISION IS SUBJECT TO JUDICIAL REVIEW  
11 PURSUANT TO TITLE 12, CHAPTER 7, ARTICLE 6. AFTER AN ORDER ISSUED PURSUANT  
12 TO THIS SUBSECTION BECOMES FINAL, THE COUNTY, TOWN OR AGENCY MAY BEGIN AN  
13 ACTION IN SUPERIOR COURT TO ENFORCE THE ORDER.

14 B. WHEN DETERMINING THE AMOUNT OF A CIVIL PENALTY PURSUANT TO  
15 SUBSECTION A OF THIS SECTION, THE ADMINISTRATIVE DIRECTOR SHALL CONSIDER ALL  
16 OF THE FOLLOWING:

- 17 1. THE SERIOUSNESS OF THE VIOLATION.
- 18 2. THE ECONOMIC BENEFIT, IF ANY, RESULTING FROM THE VIOLATION.
- 19 3. ANY HISTORY OF SUCH A VIOLATION.
- 20 4. ANY GOOD FAITH EFFORTS TO COMPLY WITH THE APPLICABLE REQUIREMENTS.
- 21 5. THE ECONOMIC IMPACT OF THE PENALTY ON THE VIOLATOR.
- 22 6. SUCH OTHER FACTORS AS JUSTICE MAY REQUIRE.

23 C. IN ADDITION TO THE REMEDIES PROVIDED IN THIS SECTION, ENFORCEMENT  
24 OF ANY ORDINANCE, RULE, REGULATION OR SPECIFICATION ADOPTED PURSUANT TO  
25 SECTION 49-371 MAY INCLUDE INJUNCTIVE OR OTHER EQUITABLE RELIEF.

26 D. CIVIL PENALTIES OBTAINED PURSUANT TO THIS SECTION BY A COUNTY OR  
27 TOWN SHALL BE DEPOSITED WITH THE COUNTY OR TOWN FOR USE IN ADMINISTERING THE  
28 PROGRAM OR PLAN ADOPTED PURSUANT TO SECTION 49-371. FOR AN AGENCY OF THIS  
29 STATE, CIVIL PENALTIES SHALL BE DEPOSITED, PURSUANT TO SECTIONS 35-146 AND  
30 35-147, IN THE STATE GENERAL FUND.

1           E. A COUNTY, TOWN OR AGENCY OF THIS STATE SHALL NOT RECEIVE CIVIL  
2       PENALTIES UNDER THIS SECTION IF AN INTERESTED PERSON, THE UNITED STATES, THIS  
3       STATE OR ANOTHER POLITICAL SUBDIVISION OR AGENCY OF THIS STATE HAS RECEIVED  
4       CIVIL PENALTIES OR IS DILIGENTLY PROSECUTING A CIVIL PENALTY ACTION IN A  
5       COURT OF THE UNITED STATES OR THIS STATE, OR IN AN ADMINISTRATIVE ENFORCEMENT  
6       PROCEEDING, WITH RESPECT TO THE SAME ALLEGATIONS, STANDARD, REQUIREMENT OR  
7       ORDER. THIS STATE, AND ANY POLITICAL SUBDIVISION OR AGENCY OF THIS STATE  
8       THAT IS OR MAY BE AFFECTED BY A CIVIL, JUDICIAL OR ADMINISTRATIVE ACTION, MAY  
9       INTERVENE AS A MATTER OF RIGHT IN ANY PENDING CIVIL, JUDICIAL OR  
10      ADMINISTRATIVE ACTION FOR PURPOSES OF OBTAINING INJUNCTIVE OR DECLARATORY  
11      RELIEF."

12   Amend title to conform

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02/14/2008  
3:56 PM  
C: myr